

CHAPTER 7-02 POWERS AND DUTIES

7-02-01. General powers. Every building and loan association is a creature of the law having certain powers and duties of a natural person and as such has power:

1. To sue and be sued.
2. Repealed by S.L. 1973, ch. 80, § 21.
3. To appoint such officers or agents as the business of the association may require and to allow them suitable compensation.
4. To enter into any obligation or contract essential to the transaction of its affairs.
5. To acquire, hold, encumber, and convey such real estate and personal property as may be necessary for the transaction of its business, or to enforce or protect its securities, but not over two percent of the assets of any association may be invested in its home office, lot, and building, and furniture and fixtures; provided, however, that ten percent of the assets of any association may be invested in its home office, lot, building, and furniture and fixtures, when authorized by a vote of two-thirds of its directors and the written approval of the commissioner of financial institutions.
6. To make such annual, semiannual, or quarterly distribution of all the earnings as the directors may direct after payment of expenses and setting aside a sum for the reserve fund as herein provided.
7. To amend its articles of incorporation by a majority vote of its directors.
8. To dissolve the corporation in accordance with the provisions of this title.
9. To provide by bylaws, adopted or amended by its board of directors, for the proper exercise of the powers herein granted, and the conduct and management of its affairs.
10. To renew its corporate existence for a term of years not more than the period limited by law, at any regular directors' meeting of such association, by a two-thirds vote of the directors of said association, and the certificate of the chairman and secretary of such directors' meeting, evidencing such vote and renewal, and filed with the secretary of state, is effectual to accomplish such renewal and must be recorded by the secretary of state in the book of corporations, and thereupon the term of the existence of such association is renewed for the term provided by said vote and certificate.
11. To exercise all such other powers as are necessary and proper to enable such corporation to carry out the purposes of its organization.

7-02-02. Power to issue shares - Share accounts - Dividends. Such an association has the power to issue share accounts to members in such form as may be authorized by its board of directors. The dividends paid to members upon such share accounts may not exceed such amounts as may be authorized by the federal savings and loan insurance corporation, or its successor, for insured associations. The term "shares" when used in this title is deemed to include "share accounts" as described in this section.

7-02-03. Power to make assessments and collections. Such an association has the power to assess and collect dues on shares and principal and interest on loans from members and to assess and collect from members and others dues and principal and interest on loans or advancements made in the amount and in the manner provided in the bylaws.

7-02-04. Interest, dues, assessments limited - Usury. Except as provided by this section, interest collected by such associations may not exceed the rate which may lawfully be charged by other financial institutions in this state. Interest not exceeding one percent per month also may be charged on delinquent payments or installments from the time such delinquent payments or installments are due. No association shall charge or collect from any shareholder, member, or borrower any fines, premiums, or penalties of any kind whatsoever except as herein provided for delinquent payments or installments. Such dues, interest, or advancements collected from members or others, within the limits of this section, shall not be deemed usury although in excess of the legal rate of interest.

7-02-05. Membership fees limited. No association nor its officers, agents, or employees may charge or collect a membership fee exceeding two percent of the par value of each share.

7-02-06. Excessive collections and charges - Penalty. Any officer, agent, or employee of an association collecting or attempting to collect any penalty, fine, or premium of any kind whatsoever, or any interest at a rate higher than provided by this chapter, except as hereinbefore provided for delinquent payments or installments, is guilty of a class B misdemeanor.

7-02-07. Powers regarding withdrawal, cancellation, and retirement of shares - Free shares - Pledged shares. A building and loan association has the following powers in connection with the withdrawal, cancellation, and retirement of shares:

1. To permit members to withdraw all or part of their share credits at such times and upon such terms as the bylaws or the board of directors may provide. At least one-half of the collections made by the association must be used for the payment of withdrawals after outstanding contracts have been provided for, and the board of directors in providing for withdrawals shall make classifications as to amount of stock held and make uniform payments as to each classification. Shareholders who have filed applications for withdrawals still remain shareholders and in no way are to be deemed creditors of the association.
2. To cancel shares upon which all credits have been withdrawn or upon which loans have been canceled or shares upon which no payments have been made for a period of six months, by returning to the shareholders all credits, if any.
3. To retire all classes of free shares and to enforce the withdrawal of the same. The bylaws of such association must state clearly the manner in which such withdrawals must be enforced, and the holders thereof must be paid full withdrawal value of the shares. Shares which have not been transferred to the association as security for repayment of a loan must be called "free shares", and shares that have been so transferred must be called "pledged shares".

7-02-08. General power to borrow, loan, invest, and deposit funds. Such an association has the following powers with reference to borrowing, loaning, investing, and depositing funds:

1. To borrow money when deemed necessary, and to issue its promissory notes therefor, and to pledge its assets as security for such notes, but the assets and securities of an association must not be pledged or hypothecated to secure its borrowed money in an amount exceeding twenty-five percent of its assets without the consent of the commissioner of financial institutions.
2. To become a member of the federal home loan bank in compliance with the provisions of the Act of Congress known and cited as a Federal Home Loan Bank Act, approved July 22, 1932, and any amendment thereto.

3. To subscribe for the stock of the federal home loan bank and to invest its funds in such stock, bonds, and obligations for the purpose and to the extent required and permitted by the provisions of the Federal Home Loan Bank Act.
4. To do all other things required under the Federal Home Loan Bank Act or any amendment thereof necessary to obtain and to continue membership in the federal home loan bank, and to assume all duties, obligations, responsibilities, and liabilities, and to become entitled to all the benefits provided in the Federal Home Loan Bank Act.
5. To borrow money from the federal home loan bank, when authorized by a resolution of its board of directors, upon such terms and rates of interest as may be agreed upon, and to assign and pledge its notes, bonds, mortgages, or other property, and to repledge its shares of stock pledged to it as collateral security for the payment of its indebtedness for money borrowed, and to do all other acts or things incidental thereto.
6. To deposit money in the federal home loan bank of the district in which the association is located upon such terms and conditions as are authorized by the federal home loan bank.
7. To make loans to members on the security of the shares of the association and also on their notes secured by first mortgages constituting first liens on improved real estate wholly or in part for dwelling purposes. Loans may be made on business property in an aggregate sum not in excess of twenty percent of the total share capital of the association and such business loans may not exceed sixty percent of the actual cash value of the property mortgaged.
8. To cancel loans made pursuant to subsection 7 and to release the securities on such terms as the board of directors may provide.
9. To loan its idle funds to other domestic building and loan associations when authorized by a vote of two-thirds of its directors and the written approval of the commissioner of financial institutions.
10. To invest its idle funds in bonds and other obligations of the United States; in bonds and other obligations of foreign countries when first approved by the commissioner of financial institutions; in bonds or evidences of debt of this state or any political subdivision thereof; in bonds or evidences of debt of any other state in the Union; or in bonds or evidences of debt of any county, city, or school district having a population according to the last state or federal census of ten thousand or more inhabitants, in any such other state of the Union.

7-02-08.1. Issuance of certificates of deposit - Penalty. Certificates of deposit, as defined in section 41-03-04, may only be issued in this state by savings and loan associations authorized to issue certificates of deposit and organized to do business in this state under this chapter or having federal savings and loan insurance of accounts, or as authorized by sections 6-03-02.2 and 6-06-06.1. Any person violating this section is subject to a civil penalty not to exceed five thousand dollars.

7-02-09. Investments in certain railroad obligations authorized. Such an association has the power to invest its idle funds in the mortgage bonds of any railroad corporation incorporated under the laws of any state of the United States, if during each of the ten fiscal years of such railroad corporation's existence next preceding the date of such investment such railroad corporation has paid the matured principal and interest of all its mortgage indebtedness.

7-02-10. Power to make limited investments in certain securities. A building and loan association has the power to invest not to exceed in the aggregate twenty percent of its assets in the following securities:

1. In commercial paper due in not more than one year from the date of the loan;
2. In first lien public utility, industrial, or equipment trust bonds; and
3. In first mortgage real estate bonds where the total issue thereof does not exceed fifty percent of the value of the property.

7-02-11. Insurance of shares in federal corporation. Any building and loan association may do all things necessary to obtain, continue, pay for, and terminate insurance of its shares with the federal savings and loan insurance corporation.

7-02-11.1. Operation without deposit insurance prohibited - Liability - Penalty. No state savings and loan association may, after December 31, 1979, engage in the savings and loan business without securing and continuing in force insurance of accounts with an agency or instrumentality of the United States of America. Any officer or director of any state savings and loan association who violates this section is guilty of a class A misdemeanor and is personally liable to any person aggrieved for any damages caused by the violation.

7-02-12. Authority for land development for residential purposes. Any building and loan association, or two or more associations, shall have authority to lend funds on first mortgage liens on land for residential development. Such development may include the laying out and dedication of streets and alleys and installation of curbing, sidewalks, water, sewer, paving, and like improvements.

7-02-13. Savings and loan association investment in service corporation. Subject to the approval of the state banking board, any savings and loan association may purchase capital stock, bonds, debentures, or other such obligations of any corporation operated for the purpose of providing data processing services. Provided, however, that no savings and loan association may invest more than one percent of its savings share capital in the capital stock, bonds, debentures, or other such obligations of a service corporation such as is authorized in this section.

7-02-14. Powers granted federally chartered savings associations extended to state-chartered associations. Any provision of law to the contrary notwithstanding, any state-chartered savings and loan association having insurance of accounts with an agency or instrumentality of the United States of America may, in addition to any loan, investment, account, or activity now permitted, make any loan, investment, or account that the association could make or offer, or engage in any activity authorized for a federal savings association with its domicile in this state. To the extent that the additional loans, investments, accounts, or activities hereby authorized are an enlargement of powers already granted by law, the additional loans, investments, accounts, and activities must be on the same terms and conditions and subject to the same limitations as are now permitted or as may hereafter be permitted in case of federally chartered savings and loan associations under presently existing, or later adopted regulations of the applicable federal regulatory agency. Any authority that is subject to discretionary approval by the federal regulatory agency is subject to discretionary approval by the state banking board.

7-02-15. Annual escrow account statement. Each savings and loan association that maintains an escrow account for the payment of taxes, assessments, insurance premiums, and other charges upon the mortgagor's residence shall furnish annually each mortgagor with a detailed statement showing all debits and credits to the escrow account.